

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO. 4:07CR47 (1)
	§	(Judge Crone)
ELLIS JAMES STONE	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on June 2, 2014, to determine whether Defendant violated his supervised release. Defendant was represented by Frank Henderson. The Government was represented by Chris Eason.

On December 17, 2007, Defendant was sentenced by the Honorable Marcia A. Crone, United States District Judge, to a sentence of 60 months imprisonment to be followed by five years of supervised release for the offense of possession of a firearm in furtherance of a drug trafficking crime. Defendant began his term of supervision on September 17, 2011.

On April 22, 2014, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision (the "Petition") (Dkt. 127). The Petition asserts that Defendant violated the following conditions of supervision: (1) Defendant shall not commit another federal, state, or local crime; Defendant shall not illegally possess a controlled substance; (3) Defendant shall refrain from any unlawful use of a controlled substance. Defendant shall submit to one drug test within 15

days of release from imprisonment or placement on probation and at least two periodic drug tests thereafter, as directed by the probation officer; (4) Defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon; and (5) Defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer.

The Petition alleges that Defendant committed the following violations: (1) On October 10, 2012, Defendant was arrested in Van Zandt County by the Texas Highway Patrol, and charged with Possession of a Controlled Substance. The arresting officer, Trooper Rawlinson, advised that Defendant had approximately (75) hydrocodone tablets in his pocket. According to the Van Zandt County District Attorney's office, Defendant was indicted on May 15, 2013, for the third degree felony offense of Possession of a Controlled Substance in the 294th Judicial District Court of Van Zandt County, Texas (Cause No. CR13-00228). According to the District Attorney's office, his next court setting is August 22, 2013, regarding this case. On or about August 14, 2013, Defendant was arrested by Arkansas State Trooper Charles Edmonson near Fort Smith, Arkansas. Trooper Edmonson advised that Defendant was found to be in possession of a firearm, ammunition, and a bag of methamphetamine. According to the offense report, Trooper Edmonson conducted a traffic stop on a vehicle in which Defendant was the passenger, and during that stop Defendant kept reaching under his seat in an anxious manner. When Defendant exited the vehicle and was frisked, he was found to have a 3.5 inch blade knife in his pocket. Police also discovered a .45 caliber semi-automatic handgun under the seat Defendant had been occupying. Five .45 caliber bullets and a small cellophane bag of a substance which field-tested positive for methamphetamine were discovered in Defendant's pockets. Also discovered by the police once the car was inventoried was

a magazine loaded with seven .45 caliber rounds, a spare magazine for the pistol, and a box of .38 special cartridges. The offense report indicates that an information will be provided to the prosecutor's office to bring charges of simultaneous possession of drugs and a firearm, felon in possession of a firearm, and carrying a weapon (the wooden handle knife with a 3.5 inch blade). However, a Logan County, Arkansas jail official reported that Defendant was booked on two felony charges: Felon in Possession of a Firearm and Possession of a Controlled Substance (methamphetamine). A \$25,000 bond was set in these cases. According to jail staff Mr. Stone bonded out on August 16, 2013, and his next court setting is in Paris, Arkansas, on September 13, 2013, at 9:00 a.m. Defendant was convicted on March 6, 2014 of Manufacture / Delivery Controlled Substance (1st Degree Felony, Cause #241-1877-13) and Possession of Marijuana (State Jail Felony, Cause #241-1878-13), both offenses occurring on or about October 18, 2013 in Smith County, Texas; (2) Defendant tested positive for methamphetamine on February 20, 2012. Defendant admitted that he used methamphetamine on February 17, 2012; (3) On or about August 13, 2013, Defendant was arrested by Arkansas State Trooper Charles Edmonson near Fort Smith, Arkansas. Trooper Edmonson advised that Defendant was found to be in possession of a .45 automatic firearm which was under the passenger seat which Defendant occupied in the vehicle. Trooper Edmonson further advised they recovered five rounds of .45 ammunition from Stone's pocket. Defendant was booked into Logan County, Arkansas jail for the offense of Felon in Possession of a Firearm; and (4) On or about August 14, 2013, Defendant was arrested by Arkansas State Trooper Charles Edmonson near Fort Smith, Arkansas. As of this writing, he has not notified this office of the contact with a law enforcement officer.

At the hearing, Defendant entered a plea of true to the alleged violations. Defendant waived his right to allocute before the district judge and his right to object to the report and recommendation of this Court. The Court finds that Defendant has violated the terms of his supervised release and that his supervised release should be revoked.

RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984 and having considered the arguments presented at the June 2, 2014 hearing, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty-seven (27) months to run consecutively with any other sentence being served, with no supervised release to follow.

SIGNED this 6th day of June, 2014.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE